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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054959
Party	Defendant Wang Lao Ji Food & Beverage subsidiary, Yangcheng Pharmaceutical Stock Corp. Ltd of Guangzhou
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Attachments	Answer and Affirmative Defenses.signed.pdf (7 pages)(397820 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Multi Access Limited)	
)	
Petitioner,)	
)	Cancellation No. 92054959
v.)	
)	Registration No. 2153322
Wang Lao Ji Food & Beveragesubsiary,)	
Yangcheng Pharmaceutical Stock Corp.)	Registration Date: April 28, 1998
Ltd of Guangzhou)	
)	
Registrant.)	

ANSWER AND AFFIRMATIVE DEFENSES

Wang Lao Ji Food & Beveragesubsiary, Yangcheng Pharmaceutical Stock Corp. Ltd. of Guangzhou ("Wang Lao Ji"), by its undersigned attorneys, answers and otherwise pleads to the cancellation petition filed by Multi Access Limited ("MAL"), against Wang Lao Ji's Trademark Registration No. 2,153,322 for the design mark incorporating three Chinese characters, the transliteration of which is "wang lao ji," as set forth below. With respect to the preamble, Wang Lao Ji denies MAL's allegation that MAL has been damaged and will continue to be damaged by the continued registration of Wang Lao Ji's Registration No. 2,153,322. Wang Lao Ji lacks sufficient information to form a belief as to the truth or falsity of the remaining allegations in the preamble and therefore denies them.

With respect to the numbered paragraphs in the Petition for Cancellation, Wang Lao Ji answers and pleads as follows:

1. Wang Lao Ji admits that according to the United States Patent and Trademark Office ("USPTO") TESS database, U.S. Registration No. 2,005,908 is for a

miscellaneous design mark that incorporates three Chinese characters, the transliteration of which is “wong lo kat”, meaning “king old lucky.” Wang Lao Ji further admits that according to the USPTO TESS database, this registration claims “herbal tea for food purposes; mixture of tea and herbal tea for food purposes,” in International Class 30 and that MAL is listed as the Last Listed Owner. Wang Lao Ji lacks sufficient information to form a belief as to the truth or falsity of the remaining allegations in Paragraph 1 and therefore denies them.

2. Wang Lao Ji denies that the date of registration for Registration No. 2,153,322 is March 25, 1996 as is listed in the caption and which caption is referenced in Paragraph 2. Wang Lao Ji admits that it is the registered owner of the design mark incorporating three Chinese characters, the transliteration of which is “wang lao ji,” which mean “wang”, “old”, and “lucky” respectively in English, but when they are used together have no meaning other than trademark significance. Wang Lao Ji admits the remaining allegations in Paragraph 2.

3. Admitted.

4. Admitted.

5. Admitted.

6. Wang Lao Ji admits that it electronically filed a Combined Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9. Wang Lao Ji further admits that said Combined Declaration was signed by Kevin Zhang and that the “Signatory’s Position” listed was “Owner.” Wang Lao Ji denies the remaining allegations in Paragraph 6.

7. Wang Lao Ji admits that it electronically filed a Declaration of Incontestability of a Mark under Section 15 on May 15, 2007. Wang Lao Ji further admits that said Declaration was executed by Kevin Zhang and that the "Signatory's Position" listed was "Owner." Wang Lao Ji denies the remaining allegations in Paragraph 7.

8. Wang Lao Ji admits that Kevin Zhang responded via facsimile to a Post Registration action related to the Combined Sections 8 & 9 Declarations and the Section 15 Affidavit. Because MAL has not defined the term "authorized representative," Wang Lao Ji lacks information sufficient to form a belief as to the truth or falsity of the allegation that Kevin Zhang represented himself as an authorized representative of Registrant and therefore denies it.

9. Wang Lao Ji lacks information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 9 and therefore denies them.

10. Wang Lao Ji repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1-9.

11. Wang Lao Ji denies that Eric Chan and Kevin Zhang are one and the same person. Wang Lao Ji admits that Kevin Zhang is an attorney at Hon.Ban (China) Patent & Trademark Firm. Wang Lao Ji lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations of Paragraph 11 and therefore denies them.

12. Wang Lao Ji admits that neither Eric Chan nor Kevin Zhang as individuals own Registration No. 2,153,322. Wang Lao Ji denies the remaining allegations in Paragraph 12.

13. Because MAL has not defined the term “authorized representative,” Wang Lao Ji lacks information sufficient to form a belief as to the truth or falsity of the allegation that Chan/Zhang is not an authorized representative of Wang Lao Ji. Wang Lao Ji admits that Kevin Zhang has the authority to act on behalf of Wang Lao Ji. Wang Lao Ji lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations of Paragraph 13 and therefore denies them.

14. Wang Lao Ji admits that under 37 C.F.R. §10.14, Kevin Zhang may not practice before the USPTO. Wang Lao Ji lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations of Paragraph 14 and therefore denies them.

15. Wang Lao Ji admits that Kevin Zhang is Wang Lao Ji's Domestic Representative. Wang Lao Ji further admits that 37 C.F.R. §603.05 states that “...the domestic representative is not authorized to prosecute an application or represent a party in a proceeding before the USPTO, unless the domestic representative is a practitioner qualified under 37 C.F.R. 10.14 to practice before the USPTO in trademark cases.” Wang Lao Ji lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations of Paragraph 15 and therefore denies them.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

AFFIRMATIVE DEFENSES

Further answering, Wang Lao Ji alleges as follows:

1. MAL has failed to state a claim upon which relief may be granted.
2. MAL has not suffered and will not suffer any injury or damage as a result of the use or registration of Wang Lao Ji's mark which is the subject of Registration No. 2,153,322.
3. Wang Lao Ji reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Lanham Act, and any other defenses or counterclaims at law or in equity, that may now exist or in the future be available based on discovery and further factual investigation.

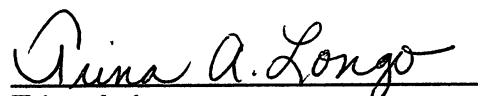
WHEREFORE, Wang Lao Ji respectfully requests that the Board dismiss the Petition for Cancellation with prejudice.

Respectfully submitted,

Wang Lao Ji Food &
Beveragesubsiary, Yangcheng
Pharmaceutical Stock Corp. Ltd of
Guangzhou

Dated: February 29, 2012

By:



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Dated: February 29, 2012

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CERTIFICATE OF SERVICE

I, Trina Longo, hereby certify that a true and complete copy of the foregoing Answer and Affirmative Defenses has been served on J. Matthew Pritchard by mailing said copy on the 29th day of February, 2012, via First Class mail, postage prepaid to:

J. Matthew Pritchard
THE WEBB LAW FIRM
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